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QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT

Written statement submitted by the International Federation of Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[11 March 1996]

1. The International Federation of Human Rights (IFHR) and its Northern Ireland correspondent, the Committee on the Administration of Justice (CAJ), remain concerned about a number of human rights issues in Northern Ireland related to detention, imprisonment and the ill-treatment of detainees. We believe the resolution of these issues is central to any lasting peace in Northern Ireland.

2. These issues have been raised at the United Nations Human Rights Committee (1995 and 1991), the United Nations Committee against Torture (1995 and 1991), the United Nations Commission on Human Rights in February (1993 and 1994), the United Nations Sub-Commission in August (1992, 1993 and 1994) and the European Committee for the Prevention of Torture (1994). During the past year, as in other years, there have also been significant rulings against the United Kingdom Government at the European Court of Human Rights. The IFHR and the CAJ are concerned at the lack of an appropriate response from

the United Kingdom Government. Indeed, the Government's apparent disregard for the conclusions of these prestigious bodies was exemplified by the response of a Home Office Minister of State on 26 October 1996 when she said in the House of Lords, "We do not plan any specific changes in our arrangements for the protection of human rights in the UK in light of the [Human Rights] Committee's views."

3. During an 18-month ceasefire by the main paramilitary groups, no significant steps were taken to address the human rights situation in Northern Ireland. For example, the Government has continued to derogate from the International Covenant on Civil and Political Rights and the European Convention on Human Rights. This suggests that the Government's approach to emergency legislation is to require exacting justification of its removal rather than exacting justification of its continued existence, as required by international law. While the IRA ceasefire has recently ended and its future remains uncertain, the specific concerns of the IFHR and the CAJ with relation to access to legal advice, the ill-treatment of detainees and the use of lethal force cannot be left unaddressed. Further, they have recently been echoed by the European Court of Human Rights while adjudicating on pre-ceasefire incidents.

4. The existence of paramilitary violence does nothing to diminish the obligations of the United Kingdom Government to live up to the international standards to which it is bound. Indeed, we would stress that the satisfactory resolution of the political problems of Northern Ireland is not possible without clear and effective protection of human rights.

Detention under emergency legislation

5. Detainees held under emergency legislation in Northern Ireland can be kept incommunicado for up to 48 hours, denied access to their lawyers for this time and for further periods of 48 hours thereafter. The effective removal of the "right to silence" means that any detainee may have inferences of guilt drawn from a failure to speak or give information during detention.

6. Denial of legal access in these conditions has recently been found to contravene the European Convention on Human Rights (Murray v. United Kingdom (1996)). The IFHR and the CAJ are concerned that it also contravenes paragraph 8 of the Basic Principles on the Role of Lawyers.

7. Detainees can be held for up to seven days without being brought before a court. This power has been found to be in breach of the European Convention on Human Rights and the United Kingdom Government has derogated from the Convention and the International Covenant on Civil and Political Rights in respect of it.

8. The United Kingdom Government has indicated that it is considering the Murray decision, but has not suggested what if any changes it intends to make. However, at the time of writing Parliament is about to renew the emergency legislation regime virtually unamended.

9. The Government has consistently failed to implement comprehensive and effective safeguards to prevent the abuse of detainees held under emergency

legislation. In 1978 the European Court of Human Rights found in the case of Ireland v. United Kingdom that the United Kingdom was subjecting detainees in Northern Ireland to inhuman and degrading treatment. In 1991 the United Nations Committee against Torture looked at renewed allegations and was concerned at the absence of effective safeguards to prevent ill-treatment. In response to international and domestic pressure, the Government has recently announced that it will introduce video recording in the holding centres. The IFHR and the CAJ remain concerned that this does not constitute sufficient progress, and that without audio taping, given past allegations of psychological abuse, video taping may do little more than change the nature of the abuse.

10. The IFHR and the CAJ call for the immediate closure of the holding centres where detainees are questioned and for the repeal of emergency legislation. This call was echoed in 1995 by the Human Rights Committee and the Committee against Torture. We are particularly concerned that the United Kingdom Government has failed to act upon these recommendations.

Transfer of prisoners

11. The IFHR and the CAJ remain concerned at the difficulties surrounding the transfer of Irish prisoners from Britain despite the recent ratification by the Irish Government of the Convention for the Transfer of Sentenced Persons. We are also alarmed at the deterioration in conditions for Irish republican prisoners held in Britain which has, ironically, occurred since the ceasefire. These conditions have had a deleterious effect on their health and well-being, and have drawn the criticism of Irish parliamentarians from across the political spectrum. Lawyers have also expressed concern that restrictions on access to their clients have seriously undermined their ability to effectively represent them.

Use of lethal force

12. The IFHR and the CAJ note that detention occurs not just in prisons and holding centres, but where police detain a section of the community against their will in specific streets. Likewise, extrajudicial killings which render detention unnecessary constitute the most extreme form of torture and punishment available to Governments.

13. The IFHR and the CAJ remain concerned that police officers and soldiers in Northern Ireland have been responsible for killing some 350 people since 1969. There is particular concern at the lack of accountability for these deaths. Some 29 prosecutions have been brought and only 6 have resulted in convictions. Two of the four, convicted of murder, were released after two and three years respectively - sentences which are unparalleled in brevity.

14. Concern over the inadequacy of legal standards governing the use of lethal force was reinforced last year by the ruling of the European Court of Human Rights in McCann, Farrell, and Savage v. United Kingdom that the shooting dead of three unarmed IRA members in Gibraltar by British soldiers was a violation of the right to life.

15. Particularly worrying is the Government's response to this decision which has been to assert publicly that it will do nothing as a result. The IFHR and the CAJ believe that this shows a wanton and reprehensible disregard for international bodies, and the standards which they uphold.

16. The IFHR and the CAJ are also concerned at the actions of the police in relation to an incident which occurred in August 1995 when potentially lethal plastic bullets were used by police on crowds (including children). In this incident the crowd was sealed into small streets with the police on one side and a river on the other. A number of plastic bullets were fired causing serious injury. According to information gathered by the IFHR and the CAJ, some of these bullets were fired at close range. The IFHR and the CAJ submit that plastic bullets, which in the past have killed 14 people, including 7 children, are not an acceptable form of crowd control.

17. The IFHR and the CAJ believe that there should be a comprehensive inquiry into the law on the use of lethal force, actions by security force members, and the investigation of extrajudicial killings. This should measure existing law and practice against internationally agreed standards such as the European Convention on Human Rights, the United Nations Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Bill of rights

18. In 1995 the Human Rights Committee urged the Government to examine the need for a bill of rights. We suggest that the above catalogue of problems points to the need for a comprehensive bill of rights for Northern Ireland.

Conclusion

19. The IFHR and the CAJ respectfully request the Commission to ensure that the United Kingdom Government complies fully with its international obligations. Effective protection and respect for human rights are crucial to a just and lasting settlement of the Northern Ireland conflict.

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